

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION

UNITED STATES OF AMERICA)
)
) No. 2:19-cr-00013
)
) Chief Judge Crenshaw
)
v.)
)
GEORGIANNA A.M. GIAMPIETRO)

GOVERNMENT’S UNOPPOSED MOTION TO VACATE
APRIL 3, 2020 STATUS CONFERENCE OR, IN THE ALTERNATIVE,
TO CONDUCT STATUS CONFERENCE BY TELEPHONE

The United States, through the United States Attorney for the Middle District of Tennessee, and the Counterterrorism Section of the National Security Division, U.S. Department of Justice, respectfully requests that the Court vacate the status conference currently scheduled for April 3, 2020. Counsel for the defendant, Georgianna A.M. GIAMPIETRO, has no objection to this request. Alternatively, if the Court wishes to proceed with the April 3, 2020 status hearing, the parties respectfully request that the Court conduct the status conference by telephone. In support of its request, the government sets forth as follows:

In an Order dated January 2, 2020, the Court set various deadlines and hearing dates in this case, including a deadline of March 27, 2020 for the government to conclude its production of discovery to the defendant and to submit to the Court the government’s filing pursuant to Section 4 of the Classified Information Procedures Act (“CIPA”), as well as a status hearing date of April 3, 2020. (*See* Doc. 89.) The Court’s Order also scheduled a follow-up status hearing for June 19, 2020. (*Id.*)

The government has made discovery productions to the defendant consistent with the

Court's January 2, 2020 Order, the only exception being a two-week extension the government sought and obtained related to certain undercover video recordings. (*See* Docs. 87, 90, 91, 92, 93, 95.) The government also submitted its CIPA Section 4 filing a day earlier than required, on March 26, 2020. (*See* Doc. 94.)

As the Court is aware, however, the nation has in recent weeks been confronted with a global pandemic associated with the novel coronavirus known as COVID-19. (*See* Middle District of Tennessee Administrative Order No. 209, First Amendment.) In an effort to slow the spread of the coronavirus, the Centers for Disease Control and Prevention has continuously provided updated guidance as to appropriate community responses, including "social distancing" techniques intended to minimize the public's exposure to infected individuals. President Donald J. Trump recently extended implementation of those techniques through April 30, 2020.

In accordance with that guidance, this Court issued Administrative Order No. 209, as well as the First Amendment to Administrative Order No. 209, the latter of which governs cases and proceedings before the district court. Pursuant to Paragraph 4 of the First Amendment to Administrative Order No. 209, "individual judges may continue to hold hearings, conferences, and bench trials in the exercise of their discretion" "Such court proceedings," moreover, "may be conducted by telephone or video conference where practicable and consistent with the law." *Id.*

The parties conducted a telephone conference on March 31, 2020, to discuss various case-related matters. Neither party is aware of any issue at the moment that necessitates a status hearing on April 3, 2020. The government thus respectfully requests that the Court vacate the April 3, 2020, status hearing. As noted, counsel for the defendant has no objection to this request.

Alternatively, if the Court wishes to proceed with the April 3, 2020, status hearing, the

parties respectfully request that the Court conduct the status conference by telephone. The defendant has informed Mr. Swift, during a telephonic conversation, that she is willing to waive her right to appear in person and is further willing to participate in the status conference by telephone.

Jennifer Levy, co-counsel for the United States, lives in Virginia, where the governor has issued an executive order to all residents to “Stay at Home” until June 10, 2020. That order, among other things, prohibits residents from leaving their homes for most activities, with the exception of certain essential tasks, and establishes that violations of the order are to be handled as misdemeanors. The U.S. Department of Justice’s Counterterrorism Section of the National Security Division has not yet received guidance on how to handle this and similar orders, including how such orders would apply to Justice Department personnel who live in Virginia. In any event, and based on other guidance she has received, Ms. Levy believes it unlikely that she would be authorized to travel to the hearing on April 3.

Likewise, Mr. Swift is located in Dallas, Texas, and under a “Stay-at-Home” direction in his county. Absent essential business functions, he, too, is directed not to travel. Further, a staff member in his office is presumptively positive for COVID-19 and under quarantine. Mr. Swift does not currently have any recognized COVID-19 symptoms, however, he did have contact with this individual during the period of time when she may have been contagious.

Ben Schrader and Philip Wehby, co-counsel for the United States, are both local and are physically capable of appearing in person. On March 29, 2020, however, Mr. Schrader developed a sore throat and a mild earache. Although neither symptom is a primary indicator of Coronavirus, Mr. Schrader would prefer to participate in the status conference by telephone as well, out of an

abundance of caution, unless those symptoms subside by April 3, 2020.

WHEREFORE, for the reasons above, the United States respectfully requests that the Court vacate the status conference currently scheduled for April 3, 2020, or, in the alternative, that the Court conduct the status conference by telephone, as outlined above.

Respectfully submitted,

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Dated: March 31, 2020

CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2020 I electronically served one copy of the government's Unopposed Motion to Vacate Status Conference or, in the Alternative, to Conduct the Status Conference by Telephone, which will send a Notice of Electronic Filing to counsel for defendant.

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